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HOUSE BILL 854

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Henry 'Kiki' Saavedra

AN ACT

RELATING TO THE RETIREMENT OF PUBLIC EMPLOYEES; PROVIDING A
TEMPORARY INCREASE IN THE EMPLOYEE CONTRIBUTION RATES AND A
CORRESPONDING TEMPORARY DECREASE IN THE EMPLOYER CONTRIBUTION
RATES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 10-11-26.5 NMSA 1978 (being Laws 1994,
Chapter 128, Section 6) is amended to read:

"10-11-26.5. STATE GENERAL MEMBER COVERAGE PLAN 3--MEMBER
CONTRIBUTION RATE.--A member under state general member
coverage plan 3 shall contribute seven and forty-two hundredths
percent of salary starting with the first full pay period that
ends within the calendar month in which state general member
coverage plan 3 becomes applicable to the member, except that,
from July 1, 2009 through June 30, 2011, the member

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1 contribution rate shall be eight and ninety-two hundredths
2 percent of salary."

3 Section 2. Section 10-11-26.6 NMSA 1978 (being Laws 1994,
4 Chapter 128, Section 7) is amended to read:

5 "10-11-26.6. STATE GENERAL MEMBER COVERAGE PLAN 3--STATE
6 CONTRIBUTION RATE.--The state shall contribute sixteen and
7 fifty-nine hundredths percent of the salary of each member
8 covered by state general member coverage plan 3 starting with
9 the first pay period that ends within the calendar month in
10 which state general member coverage plan 3 becomes applicable
11 to the member, except that, from July 1, 2009 through June 30,
12 2011, the state contribution rate shall be fifteen and nine
13 hundredths percent of the salary of each member."

14 Section 3. Section 10-11-31 NMSA 1978 (being Laws 1987,
15 Chapter 253, Section 31, as amended) is amended to read:

16 "10-11-31. STATE POLICE MEMBER AND ADULT CORRECTIONAL
17 OFFICER MEMBER COVERAGE PLAN 1--MEMBER CONTRIBUTION RATE.--A
18 member under state police member and adult correctional officer
19 member coverage plan 1 shall contribute seven and six-tenths
20 percent of salary, except that, from July 1, 2009 through June
21 30, 2011, the member contribution rate shall be nine and one-
22 tenth percent of salary."

23 Section 4. Section 10-11-32 NMSA 1978 (being Laws 1987,
24 Chapter 253, Section 32, as amended) is amended to read:

25 "10-11-32. STATE POLICE MEMBER AND ADULT CORRECTIONAL

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1 OFFICER MEMBER COVERAGE PLAN 1--STATE CONTRIBUTION RATE.--The
2 state shall contribute twenty-five and one-tenth percent of the
3 salary of each member under state police member and adult
4 correctional officer member coverage plan 1, except that, from
5 July 1, 2009 through June 30, 2011, the state contribution rate
6 shall be twenty-three and six-tenths percent of the salary of
7 each member."

8 Section 5. Section 10-11-38.5 NMSA 1978 (being Laws 1994,
9 Chapter 128, Section 13) is amended to read:

10 "10-11-38.5. STATE HAZARDOUS DUTY MEMBER COVERAGE PLAN
11 2--MEMBER CONTRIBUTION RATE.--A member under state hazardous
12 duty member coverage plan 2 shall contribute four and seventy-
13 eight hundredths percent of salary starting with the first full
14 pay period that ends within the calendar month in which state
15 hazardous duty member coverage plan 2 becomes applicable to the
16 member, except that, from July 1, 2009 through June 30, 2011,
17 the member contribution rate shall be six and twenty-eight
18 hundredths percent of salary."

19 Section 6. Section 10-11-38.6 NMSA 1978 (being Laws 1994,
20 Chapter 128, Section 14) is amended to read:

21 "10-11-38.6. STATE HAZARDOUS DUTY MEMBER COVERAGE PLAN
22 2--STATE CONTRIBUTION RATE.--The state shall contribute
23 twenty-five and seventy-two hundredths percent of the salary of
24 each member covered by state hazardous duty member coverage
25 plan 2 starting with the first pay period that ends within the

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1 calendar month in which state hazardous duty member coverage
2 plan 2 becomes applicable to the member, except that, from July
3 1, 2009 through June 30, 2011, the state contribution rate
4 shall be twenty-four and twenty-two hundredths percent of the
5 salary of each member."

6 Section 7. Section 10-12B-10 NMSA 1978 (being Laws 1992,
7 Chapter 111, Section 10, as amended) is amended to read:

8 "10-12B-10. MEMBER CONTRIBUTIONS--TAX TREATMENT.--

9 A. Members, while in office, shall contribute to
10 the member contribution fund pursuant to the following
11 schedule:

12 (1) prior to July 1, 2005, five and one-half
13 percent of salary;

14 (2) from July 1, 2005 through June 30, 2006,
15 six and one-half percent of salary; and

16 (3) on and after July 1, 2006, seven and one-
17 half percent of salary, except that, from July 1, 2009 through
18 June 30, 2011, the member contribution rate shall be nine
19 percent of salary.

20 B. Upon implementation, the state, acting as
21 employer of members covered pursuant to the provisions of the
22 Judicial Retirement Act, shall, solely for the purpose of
23 compliance with Section 414(h) of the Internal Revenue Code of
24 1986, pick up for the purposes specified in that section member
25 contributions required by this section for all annual salary

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1 earned by the member. Member contributions picked up pursuant
2 to the provisions of this section shall be treated as employer
3 contributions for purposes of determining income tax
4 obligations under the Internal Revenue Code of 1986; however,
5 such picked-up member contributions shall be included in the
6 determination of the member's gross annual salary for all other
7 purposes under federal and state laws. Member contributions
8 picked up pursuant to the provisions of this section shall
9 continue to be designated member contributions for all purposes
10 of the Judicial Retirement Act and shall be considered as part
11 of the member's annual salary for purposes of determining the
12 amount of the member's contribution. The provisions of this
13 section are mandatory, and the member shall have no option
14 concerning the pickup or concerning the receipt of the
15 contributed amounts directly instead of having the amounts paid
16 by the employer to the retirement system. Implementation
17 occurs upon authorization by the board. In no event may
18 implementation occur other than at the beginning of a pay
19 period applicable to the member."

20 Section 8. Section 10-12B-11 NMSA 1978 (being Laws 1992,
21 Chapter 111, Section 11, as amended) is amended to read:

22 "10-12B-11. EMPLOYER CONTRIBUTIONS.--

23 A. The member's court shall contribute the
24 following amounts to the fund:

25 (1) prior to July 1, 2005, nine percent of
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1 salary for each member in office;

2 (2) from July 1, 2005 through June 30, 2006,
3 ten and one-half percent of salary for each member in office;
4 and

5 (3) on and after July 1, 2006, twelve percent
6 of salary for each member in office, except that, from July 1,
7 2009 through June 30, 2011, the member's court contribution
8 rate shall be ten and one-half percent of salary for each
9 member in office.

10 B. Thirty-eight dollars (\$38.00) from each civil
11 case docket fee paid in the district court, twenty-five dollars
12 (\$25.00) from each civil docket fee paid in metropolitan court
13 and ten dollars (\$10.00) from each jury fee paid in
14 metropolitan court shall be paid by the court clerk to the
15 employer's accumulation fund."

16 Section 9. Section 10-12C-10 NMSA 1978 (being Laws 1992,
17 Chapter 118, Section 10, as amended) is amended to read:

18 "10-12C-10. MEMBER CONTRIBUTIONS--TAX TREATMENT.--

19 A. Members, while in office, shall contribute the
20 following amounts to the member contribution fund:

21 (1) through June 30, 2006, six and one-half
22 percent of salary; and

23 (2) on and after July 1, 2006, seven and one-
24 half percent of salary, except that, from July 1, 2009 through
25 June 30, 2011, the member contribution rate shall be nine

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1 percent of salary.

2 B. Upon implementation, the state, acting as
3 employer of members covered pursuant to the provisions of the
4 Magistrate Retirement Act, shall, solely for the purpose of
5 compliance with Section 414(h) of the Internal Revenue Code of
6 1986, pick up for the purposes specified in that section member
7 contributions required by this section for all annual salary
8 earned by the member. Member contributions picked up pursuant
9 to the provisions of this section shall be treated as employer
10 contributions for purposes of determining income tax
11 obligations under the Internal Revenue Code of 1986; however,
12 such picked-up member contributions shall be included in the
13 determination of the member's gross annual salary for all other
14 purposes under federal and state laws. Member contributions
15 picked up pursuant to the provisions of this section shall
16 continue to be designated member contributions for all purposes
17 of the Magistrate Retirement Act and shall be considered as
18 part of the member's annual salary for purposes of determining
19 the amount of the member's contribution. The provisions of
20 this section are mandatory, and the member shall have no option
21 concerning the pick up or concerning the receipt of the
22 contributed amounts directly instead of having the amounts paid
23 by the employer to the retirement system. Implementation
24 occurs upon authorization by the board. In no event may
25 implementation occur other than at the beginning of a pay

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1 period applicable to the member."

2 Section 10. Section 10-12C-11 NMSA 1978 (being Laws 1992,
3 Chapter 118, Section 11, as amended) is amended to read:

4 "10-12C-11. EMPLOYER CONTRIBUTIONS.--

5 A. The state, through the administrative office of
6 the courts, shall contribute the following amounts to the fund:

7 (1) through June 30, 2006, ten percent of
8 salary for each member in office; and

9 (2) on and after July 1, 2006, eleven percent
10 of salary for each member in office, except that, from July 1,
11 2009 through June 30, 2011, the state contribution rate shall
12 be nine and one-half percent of salary for each member in
13 office.

14 B. Twenty-five dollars (\$25.00) from each civil
15 case docket fee paid in magistrate court and ten dollars
16 (\$10.00) from each civil jury fee paid in magistrate court
17 shall be paid by the court clerk to the employer's accumulation
18 fund."

19 Section 11. Section 22-11-21 NMSA 1978 (being Laws 1967,
20 Chapter 16, Section 144, as amended) is amended to read:

21 "22-11-21. CONTRIBUTIONS--MEMBERS--LOCAL ADMINISTRATIVE
22 UNITS.--

23 A. Except as provided in Subsection C of this
24 section, each member shall make contributions to the fund
25 according to the following schedule:

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1 (1) through June 30, 2005, an amount equal to
2 seven and six-tenths percent of the member's annual salary;

3 (2) from July 1, 2005 through June 30, 2006,
4 an amount equal to seven and six hundred seventy-five
5 thousandths percent of the member's annual salary;

6 (3) from July 1, 2006 through June 30, 2007,
7 an amount equal to seven and seventy-five hundredths percent of
8 the member's annual salary;

9 (4) from July 1, 2007 through June 30, 2008,
10 an amount equal to seven and eight hundred twenty-five
11 thousandths percent of the member's annual salary; and

12 (5) on and after July 1, 2008, an amount equal
13 to seven and nine-tenths percent of the member's annual salary,
14 except that, from July 1, 2009 through June 30, 2011, the
15 member contribution rate shall be nine and four-tenths percent
16 of the member's annual salary.

17 B. Except as provided in Subsection C of this
18 section, each local administrative unit shall make an annual
19 contribution to the fund according to the following schedule:

20 (1) through June 30, 2005, a sum equal to
21 eight and sixty-five hundredths percent of the annual salary of
22 each member employed by the local administrative unit;

23 (2) from July 1, 2005 through June 30, 2006, a
24 sum equal to nine and forty-hundredths percent of the annual
25 salary of each member employed by the local administrative

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1 unit;

2 (3) from July 1, 2006 through June 30, 2007, a
3 sum equal to ten and fifteen-hundredths percent of the annual
4 salary of each member employed by the local administrative
5 unit;

6 (4) from July 1, 2007 through June 30, 2008, a
7 sum equal to ten and ninety-hundredths percent of the annual
8 salary of each member employed by the local administrative
9 unit;

10 (5) from July 1, 2008 through June 30, 2009, a
11 sum equal to eleven and sixty-five hundredths percent of the
12 annual salary of each member employed by the local
13 administrative unit;

14 (6) from July 1, 2009 through June 30, 2010, a
15 sum equal to ~~[twelve and four-tenths]~~ ten and nine-tenths
16 percent of the annual salary of each member employed by the
17 local administrative unit;

18 (7) from July 1, 2010 through June 30, 2011, a
19 sum equal to ~~[thirteen and fifteen-hundredths]~~ eleven and
20 sixty-five hundredths percent of the annual salary of each
21 member employed by the local administrative unit; and

22 (8) on and after July 1, 2011, a sum equal to
23 thirteen and nine-tenths percent of the annual salary of each
24 member employed by the local administrative unit.

25 C. If, in a calendar year, the salary of a member,
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1 initially employed by a local administrative unit on or after
2 July 1, 1996, equals the annual compensation limit set pursuant
3 to Section 401(a)(17) of the Internal Revenue Code of 1986, as
4 amended, then:

5 (1) for the remainder of that calendar year,
6 no additional member contributions or local administrative unit
7 contributions for that member shall be made pursuant to this
8 section; provided that no member shall be denied service credit
9 solely because contributions are not made by the member or on
10 behalf of the member pursuant to the provisions of this
11 subsection; and

12 (2) the amount of the annual compensation
13 limit shall be divided into four equal portions and, for
14 purposes of attributing contributory employment and crediting
15 service credit, each portion shall be attributable to one of
16 the four quarters of the calendar year."

17 Section 12. EFFECTIVE DATE.--The effective date of the
18 provisions of this act is July 1, 2009.